

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TEAMSTERS LOCAL UNION NO. 117, a
Washington Labor organization,

Plaintiff,

v.

ALAN RITCHEY, INC., a Texas corporation,

Defendant.

CASE NO. C07-0095RSM

ORDER DENYING MOTION TO
CONTINUE HEARING DATE

Defendant Alan Ritchey, Inc., has moved for a continuance of the hearing on motion for a temporary restraining order in this matter. For the reasons set forth below, the Court deems it unnecessary to await a response from plaintiff on this motion, and denies it.

Plaintiff Teamsters Local Union ("the Union") filed a complaint for injunctive relief, together with a motion for a temporary restraining order ("TRO"), on Monday, January 22, 2007. Plaintiff certified to the Court that counsel for defendants had been advised on Sunday evening that the motion would be filed. The Court, upon review of the motion, determined that the circumstances presented did not meet the requirements set forth in F.R.Civ.Proc. 65(b) for granting such motion without notice to the opposing party, and set the matter for a hearing three days later to allow defendant to respond. The Court's ruling

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1 was based on a determination that immediate and irreparable injury, loss or damage would not result
2 before the defendant could be heard in opposition, if such hearing were held in a timely fashion. In so
3 finding, the Court balanced plaintiff's request for immediate relief with defendant's right to be heard in
4 opposition, and determined that three days would least prejudice both parties.

5 Upon receipt of the Order setting a hearing, plaintiff advised the Court by telephone that the
6 parties would be in trial together before the National Labor Relations Board on Tuesday, Wednesday,
7 and Thursday of this week. The Court then set the hearing for Friday, January 26, and set a briefing
8 schedule on the matter.

9 Defendant asserts that a Friday hearing is not possible because of the trial. Defendant contends it
10 is substantially prejudiced because of that trial, in part because witnesses are unavailable. However,
11 nowhere does defendant assert that the parties will actually be in trial on Friday. Nor has defendant
12 explained why counsel cannot attend the Friday hearing and show cause why the TRO requested by
13 plaintiff should not issue. Plaintiff has offered security in the amount of \$10,000, and asks in the TRO
14 only that defendant be restrained from denying representatives of the Union from access to defendant's
15 employees during lunch breaks, as set forth in the collective bargaining agreement. Such TRO would, if
16 granted, extend only until a full hearing on plaintiff's requested preliminary injunction could be set.

17 Accordingly, defendant's request to continue the hearing is DENIED. In the event the trial
18 should extend to Friday, so that both parties are unable to attend the hearing, they shall so advise the
19 Court so that the matter can be set as early thereafter as this Court's schedule will allow.

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21 Dated this 23 day of January 2007.

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23 RICARDO S. MARTINEZ
24 UNITED STATES DISTRICT JUDGE
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